

Who will ensure truth and accuracy in labelling?

It is anticipated that the mandatory labelling regime will be enforced jointly by Federal and State health and fair trading agencies under the prohibitions of misleading and deceptive conduct within their jurisdiction (fair trading acts, food acts and the Trade Practices Act).

Not all complaints will make it through the Commission's selection process for enforcement actions and many matters will be better handled by relevant State and Territory food authorities or through private action.

There are many stakeholders in the community that have diverse interests in ensuring accurate labelling. Competitors in the food industry have specific technical information, such as on sources of ingredients and manufacturing processes to support action under the Act. Community groups such as consumer, environmental or religious groups may pursue representative actions.

Conclusion

Australian governments have recognised that the GM status of foods is important to consumers by creating a mandatory standard on food safety and labelling. The Commission and the Trade Practices Act support the right of consumers to base their purchasing decisions (for whatever reason) on accurate information.

Manufacturers and suppliers will need to be able to substantiate any labels or marketing claims on the GM status of their products. Industry participants should be aware that action under the Act might come from many different fronts if they are gaining an unfair advantage by breaking the law.

The Commission will continue to work with other agencies, consumers and the food industry to provide guidance and to pursue representations that breach the Act.

The full version of this paper will be available soon on the Commission's website at:
<<http://www.accc.gov.au>>.

Compliance, maturing as a discipline

This is an introduction by Commissioner Sitesh Bhojani to the following article, a transcript of a speech by Justice Alan H Goldberg.

The Association for Compliance Professionals of Australia Incorporated (ACPA) held its fourth annual conference in Melbourne on 23-24 November, 2000. The conference attracted more than 180 delegates. ACPA now has more than 7000 members including ones from throughout Australia, New Zealand, Japan, Fiji, Indonesia, the Republic of South Africa and the United States. The association has come a long way in its four short years. In my view ACPA can accurately profess to be at the cutting edge of compliance. By focusing on the business case for compliance as the rationale for compliance it is ensuring that its members and true compliance professionals will be valuable assets of any corporation.

The Commission has been a strong supporter of compliance programs and the need for professionals with expertise in compliance. Indications of this include producing *Best and fairest*, an interactive trade practices compliance tool, its role in the creation of the Australian Standard AS 3806-1998 on compliance programs, its support of the establishment of ACPA, and its publishing of corporate trade practices compliance programs.

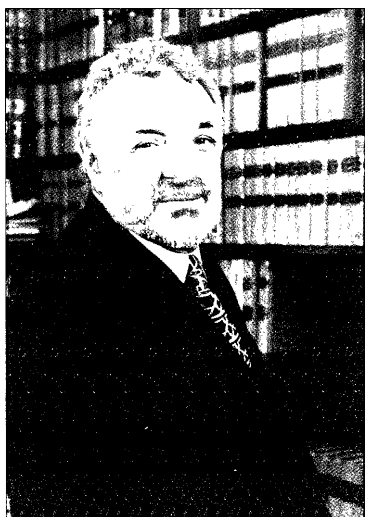
Joe Murphy, Executive Vice President, Compliance Systems Legal Group in the USA, was ACPA's guest speaker at the conference. With his tremendous expertise on compliance issues Joe's skills were in high demand for a pre-conference workshop and conference presentations on 'International Compliance Review' and 'Compliance tools — do electronic tools work'.

ACPA's conference was officially opened by the Honourable Justice Alan H Goldberg, from the Federal Court of Australia. I found his Honour's opening address to be insightful. It makes a valuable contribution to the debate about the role and need for compliance systems.

From the Commission's perspective it also articulates the increasingly central role that Australia's competition and consumer protection laws have in the culture of Australian society.

With his Honour's and ACPA's permission his opening address is reproduced below for the benefit of all those working to achieve compliance with, or advise on, compliance with Australia's competition and consumer protection laws.

At the cutting edge of compliance



A transcript of a speech by Justice Alan H Goldberg, Federal Court of Australia. It was given as the opening address of the Fourth Annual Conference of the Association for Compliance Professionals on 23 November 2000.

What do domestic violence, drink-driving and price-fixing have in common and what is the relevance of that commonality for such a gathering of professionals as we have today?

Before you decide you have come to the wrong session or the speaker has been badly briefed or has completely misread his audience — hear me out.

When I came into the legal profession almost 40 years ago the following situations generated the following social comment:

- A violent husband or father severely chastised his wife and children. The police were called, they perceived they had been called to a 'domestic'. They pacified the parties, albeit usually temporarily, and left the 'domestic', without any charges having been laid. The conduct, which was plain assault, was

viewed in the context of a 'domestic situation' and not recognised or acknowledged as criminal conduct.

- A person drank ten beers or so in the space of an hour or so, went to drive home, was apprehended by the police, charged and convicted of driving under the influence. The attitude of those around him — wasn't he stiff to get caught. No suggestion that he had indulged in criminal or serious conduct.
- Companies got together and agreed upon uniform prices or divided up the market agreeing not to charge less than an agreed price and not to do business in specified areas. That wasn't a crime. It was prudent business conduct. Certainly it was orderly marketing.

Just on 40 years later what has changed?

- Domestic violence is recognised for what it is — plain violence. It is no longer shrugged off by the community and swept under the carpet, least of all by the police. The general community condemns violence in the home and has particular structures in place to deal with it — such as intervention orders.
- A person convicted of driving under the influence is not regarded benevolently by his or her peers on the basis — wasn't that bad luck. Such a person is not only described in the words of the Victorian Transport Accident Commission advertisements as 'a bloody idiot', he or she is roundly condemned.
- Price-fixing and market sharing is no longer regarded as orderly marketing and prudent or reasonable commercial practice. It is likewise condemned and regarded by the general community as a breach of the law to be penalised substantially and seriously.

The commonality? A change in communal and societal culture. Not only have the laws changed in each scenario. More importantly, community attitudes and the culture of society has changed. Hand-in-hand with changes in the law, there has occurred behaviour modification and a change in the attitude of society to particular breaches.

The relevance of this to the members of your association I would expect is self-evident but let me elaborate. There are many areas of commercial and professional activity which are the subject of regulation and the prescription of standards of conduct.